IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRD DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE M.H.S. ANSARI

and
THE HON'BLE MR JUSTICE T.CH.SURYA RAO

WRIT PETITION NO : 1480 of 2005

Between:

1 Mr.Y.Satya Venkata Rambabu, s/o Venkata Ratnam, D.No.10140, Canal Road, Vedangi, Poduru Mandal, West Godavari District.

2 Mrs.Y.Satyavathi, w/o Venkata Ratnam, D.No.140, Canal Road, Vedangi, Poduru Mandal, West Godavari District.

3 Mrs.Y.Baby Padma Saroja, w/o Y.Satya Venkata Rambabu, D.No.140, Canal Road, Vedangi, Poduru Mandal, West Godavari District.

.....PETITIONERS

AND

1 The Deputy Commercial Tax Officer, Palakol, West Godavari District.

2 The Commercial Tax Officer, Palakol, West Godavari District.

....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ of mandamus declaring the action of the 2nd respondent in issuing Form No.4 and action of the 1st respondent in issuing Form No.5, notice of attachment, issued Under Section 25 and 27 of the AP Revenue Recovery Act, dated 10-11-

2004 and 7-12-2004 respectively, attaching the landed property of the 2nd petitioner herein, is illegal and unenforceable, arbitrary, violative of rights of the petitioner guaranteed under Article 14, 265 and 300A of Constitution of India and consequently direct the respondents herein to consider the representations of the petitioners dated 6-10-2004 and 22-1-2005 in the light of G.O.Ms.Nos.950, 951 & 952 Revenue (C.T.II) Department dated 10-9-2003 and G.O.Ms.Nos.682 & 683 Revenue (C.T.II) Department dated 3-9-2004 and pass such other order or orders as this Hon'ble Court may deems fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.P.BALAJI VARMA
Counsel for the Respondents: GP FOR COMMERCIAL TAX

The Court at the admission stage made the following:

ORDER (Per the Hon'ble Sri Justice MHS Ansari)

Heard learned counsel for the respective parties.

The grievance of the petitioner appears to be that the respondent authorities are taking action for recovery of the amounts due under Rural Development Cess Act for the years 1997-1998 to 2001-2002. The petitioners are relying upon G.O. Ms. Nos. 950, 951 and 952 whereby certain reliefs have been granted with respect to Rural Development Cess on paddy to be collected on value of paddy.

Learned counsel for the petitioners has drawn attention of this Court to the representation made on 6-10-2004 and contended that unless the same is considered, the petitioners are not liable to pay the amounts demanded nor can the respondents recover the disputed amount by re-course to coercive measures. According to the petitioner, substantial benefits would accrue to the petitioner in the light of G.O. Ms. Nos. 950,951 and 952 and therefore, the amounts now sought to be recovered are not warranted much less by attachment of properties of the petitioners.

It has been brought to our notice that notices in Form Nos. 4 and 5 of the A.P. Revenue Recovery Act have been issued and the properties attached pursuant to Form No.5 notice under Revenue Recovery Act.

As representation has been made on 6-10-2004 and same not having been disposed of, we are inclined to dispose of the instant Writ Petition with certain directions as under:

1.The 2nd respondent herein-Commercial Tax Officer shall consider the representation, dated
6-10-2004 submitted before it by the petitioners and dispose of the same in accordance with law within a period of four weeks from the date of communication of a copy of this order.

2. Until such time as the representation is disposed of as directed above, no further steps or proceedings shall be taken pursuant to the notice of attachment.

3.Notice of attachment in Form Nos. 4 and 5 shall subsist till the disposal of the representation by the 2nd respondent and thereafter it shall be open to the respondent authorities to affect recovery in accordance with law for the amount that may be found due and payable by the petitioner.

The Writ Petition is accordingly disposed of with the directions as above. No order as to costs.

M.H.S.ANSARI, J

Dated: 03-02-2005

T.CH.SURYA RAO, J

Hsd

Asst.Registrar

To

1 The Deputy Commercial Tax Officer,
Palakol, West Godavari District.

2 The Commercial Tax Officer, Palakol, West Godavari
District.

3. 2 C. Cs. to G.P. for Commercial Tax, High Court buildings,

Hyderabad (OUT)

4. 2 C.D. copies.